

AMENDED IN ASSEMBLY JUNE 20, 2006

AMENDED IN SENATE JANUARY 4, 2006

AMENDED IN SENATE MARCH 29, 2005

**SENATE BILL**

**No. 420**

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**Introduced by Senator Simitian**

February 17, 2005

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An act to amend Section 22154 of the Public Contract Code, and to amend Section 42701 of, *and to add Section 42702 to*, the Public Resources Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 420, as amended, Simitian. Public contracts: procurements: recycled products.

(1) Existing law provides various procedures for the procurement of goods and services by local public entities. Existing law also requires local public entities to purchase recycled products instead of nonrecycled products according to various procedures and requirements.

This bill would make a technical, nonsubstantive change to correct an erroneous reference to a "state agency" in the local public entity provisions regarding the procurement of recycled products.

(2) Existing law requires the State Procurement Officer to follow specified procedures when purchasing materials for use by the Department of Transportation, or any other state agency that provides road construction and repair services, to utilize paving materials that include recycled materials. *Existing law requires the State Procurement Officer to make contracts available for those items that*

*utilize recycled materials in paving materials and base, subbase, and pervious backfill materials, unless a specified requirement is met.*

*This bill would make these requirements applicable to any state agency that provides construction and repair services. The bill would require the State Procurement Officer to contract for those items that utilize recycled material in those materials, rather than requiring the State Procurement Officer to make those contracts available.*

*(3) The bill would impose those same requirements, as revised, on a local government agency that purchases materials to be used in paving or paving subbase for use by a local government agency that provides construction and repair services. By imposing new duties on local government, the bill would impose a state-mandated local program.*

*(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 22154 of the Public Contract Code is  
2 amended to read:  
3 22154. (a) All businesses shall certify in writing to the  
4 contracting officer, or his or her representative, the minimum, if  
5 not exact, percentage of postconsumer material in the products,  
6 materials, goods, or supplies being offered or sold to any local  
7 public entity.  
8 (b) With respect to printer or duplication cartridges that  
9 comply with the requirements of subdivision (e) of Section  
10 12156, the certification required by this subdivision shall specify  
11 that the cartridges so comply.  
12 (c) A local public entity may waive the certification  
13 requirement if the percentage of postconsumer material in the  
14 products, materials, goods, or supplies can be verified in a

1 written advertisement, including, but not limited to, a product  
2 label, a catalog, or a manufacturer or vendor Internet Web site.

3 SEC. 2. Section 42701 of the Public Resources Code is  
4 amended to read:

5 42701. (a) In purchasing any materials to be used in paving  
6 or paving subbase for use by the Department of Transportation  
7 and any other state agencies that provide construction and repair  
8 services, the State Procurement Officer shall ~~make contracts~~  
9 ~~available~~ contract for those items that utilize recycled materials  
10 in paving materials and base, subbase, and pervious backfill  
11 materials, unless the Director of Transportation determines that  
12 the use of the materials is not cost effective. In determining the  
13 cost-effectiveness of the materials subject to this section, the  
14 factors that the director shall consider include *both of* the  
15 following:

16 (1) The lifespan and durability of the pavement containing the  
17 materials.

18 (2) The maintenance cost of the pavement containing the  
19 materials.

20 (b) This section also applies to any person who contracts with  
21 the Department of General Services or with any other state  
22 agency to provide these construction and repair services.

23 (c) The recycled materials shall include, but are not limited to,  
24 recycled asphalt, crushed concrete subbase, foundry slag, and  
25 paving materials utilizing crumb rubber from automobile tires,  
26 ash, and glass and glassy aggregates. The specifications shall be  
27 based on the standards of the Department of Transportation for  
28 recycled paving materials and for recycled base, subbase, and  
29 pervious backfill materials.

30 SEC. 3. Section 42702 is added to the Public Resources  
31 Code, to read:

32 42702. (a) *In purchasing any materials to be used in paving*  
33 *or paving subbase for use by a local government agency that*  
34 *provides construction and repair services, the local government*  
35 *agency shall contract for those items that utilize recycled*  
36 *materials in paving materials and base, subbase, and pervious*  
37 *backfill materials, unless the local government agency*  
38 *determines that the use of the materials is not cost-effective. In*  
39 *determining the cost-effectiveness of the materials subject to this*

1 *section, the factors that the local government agency shall*  
2 *consider include both of the following:*

3 *(1) The lifespan and durability of the pavement containing the*  
4 *materials.*

5 *(2) The maintenance cost of the pavement containing the*  
6 *materials.*

7 *(b) This section also applies to a person who contracts with*  
8 *the local government agency, or with any other local*  
9 *governmental agency, to provide these construction and repair*  
10 *services.*

11 *(c) The recycled materials shall include, but are not limited to,*  
12 *recycled asphalt, crushed concrete subbase, foundry slag, and*  
13 *paving materials utilizing crumb rubber from automobile tires,*  
14 *ash, and glass and glassy aggregates.*

15 *SEC. 4. If the Commission on State Mandates determines that*  
16 *this act contains costs mandated by the state, reimbursement to*  
17 *local agencies and school districts for those costs shall be made*  
18 *pursuant to Part 7 (commencing with Section 17500) of Division*  
19 *4 of Title 2 of the Government Code.*